

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:16-CV-347-FL

GREGORY BLAKE HALEY,
Plaintiff,

v.

TOWN OF WAKE FOREST, ERIC
KERAVUORI, MITZI FRANKLIN,
VIRGINIA JONES, MARK WILLIAMS,
and ROE O'DONNELL,
Defendants.

ORDER

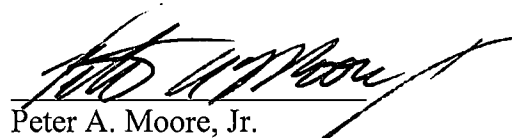
This matter is before the clerk on the application for costs [DE-78] filed by defendants. Therein, defendants seek to recover \$655.75 in costs incurred in formatting and copying briefs filed at the Fourth Circuit Court of Appeals.

Federal Rule of Appellate Procedure 39 governs taxation of costs incurred during appeals. That rule provides that “[a] party who wants costs taxed must—within 14 days after entry of judgment—file with the circuit clerk, with proof of service, an itemized and verified bill of costs.” Fed. R. App. P. 39(d)(1). Only certain delineated appellate costs may be sought and taxed in the district court, including “(1) the preparation and transmission of the record; (2) the reporter’s transcript, if needed to determine the appeal; (3) premiums paid for a bond or other security to preserve rights pending appeal; and (4) the fee for filing a notice of appeal.” Fed. R. App. P. 39(e).

This court’s authority to award costs is limited by Rule 39(e) of the Federal Rules of Appellate Procedure. The costs sought by defendants, for formatting and copying briefs, do not fall within that rule, and as such, they must be sought in the Fourth Circuit Court of Appeals. See Batton v. Commc’n Workers of Am., No. 2:13CV426, 2016 WL 208518, at *2 (E.D. Va. Jan. 14, 2016) (denying a request for costs of copies of an appellate brief and appendix because the bill of

cost must be filed with the circuit clerk); Stollings v. Ryobi Techs., Inc., NO. 08 C 4006, 2015 WL 4100479, at *8 (N.D. Ill. July 6, 2015) (taxing a party's costs for filing a notice of appeal but denying the remaining appellate costs "because Rule 39(e) does not cover the costs of . . . copying, or printing briefs"); Dempsey v. Colvin, No. 1:09CV790-SRW, 2013 WL 3280319, at *4 (M.D. Ala. June 27, 2013) ("The costs plaintiff incurred in copying her appellate briefs and record excerpts are not among those that Rule 39 authorizes this court to tax."). Accordingly, defendants' application for costs [DE-78] is DENIED.

SO ORDERED. This the 25 day of September, 2019.


Peter A. Moore, Jr.
Clerk of Court